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EXAMINER

COLBERT, ELLA

ART.UNIT

PAPER NUMBER

3624

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/664,226

**Applicant(s)**

LI ET AL.

**Examiner**

Ella Colbert

**Art Unit**

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-52 are pending. Claims 1, 2, 4-11, 16, 17, 21-24, 27, 28, 30-37, 42, and 47-50 have been amended, the Specification and drawing figures 2, 4, and 7 have been amended in this communication filed 10/13/04.

2. The amendment to the Specification has overcome the objection to the Specification and is hereby withdrawn.

3. The amendments to the drawing objections have overcome the objection to drawing figures 2 and 7 and are hereby withdrawn. Drawing figure 4 is still objected to as set forth here below.

4. The 35 USC 112 second paragraph rejection has been overcome by Applicants' amendment to claims 1, 2, 4, 16, 17, 21-23, 27, 28, 30, 42, 43, and 49 and claims 1-27 and is hereby withdrawn.

5. The 35 USC 101 rejection has been overcome by Applicants' amendment to claims 1-27 and is hereby withdrawn.

### ***Drawings***

6. The drawings are objected to because amended (what is presumed to be Figure 4 ) has the figure number "4" missing from the drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

7. The amendment filed 10/13/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 1 and 27 recite "specified objective function". It is unclear what Applicants' mean by "specified objective function" because it is not found in the Specification or the drawing figures.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter is "specified objective function" addressed above in the objection to new matter and "requirement" and "requirements". The Specification mentions "private buyer constraint" and "public buyer constraint". The amended claim limitation "requirement" and "requirements" does not appear to be in agreement with Applicants' Specification or Drawings.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 2, 4, 5, 16, 17, 21-24, 27, 28, 30, 31-42, and 47-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 as amended recites "... requirements representative of said requisition; ... , a specified objective function including non-price criteria; ... transmitting to a set of prospective suppliers, over said computer network, said requirements; ...". It is unclear what Applicants' mean by "requirements" and a "specified objective function". Applicants' are respectfully requested to clarify these limitations in the claim language and to point out to the Examiner in the Specification where the support for these limitations can be found.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 6,647,373) Carlton-Foss.

As per Claim 1, Carlton-Foss teaches, A computer-implemented method for determining an optimal award schedule for at least partial satisfaction of a requisition, said method comprising: receiving from a buyer, over a computer network, requirements representative of said requisition (col. 2, lines 22-52 and figs. 2 and 3 (52)); Receiving from the buyer, over said computer network, a specified objective function including non-price criteria (Figure 4a, Figure 4B, and figure 15); transmitting to a set of prospective suppliers, over said computer network, said requirements (col. 2, lines 44-52 and lines 63-65 and figs. 2 and 3 (52)); receiving from each candidate supplier from a set of candidate suppliers, over said computer network, a bid responsive to requirements, said set of candidate suppliers originating from said set of prospective suppliers (col. 2, lines 66-67 and col. 3, lines 1-6); and utilizing, by a programmed computer, the specified objective function to select a subset of suppliers from said suppliers from said set of candidate suppliers and determine an optimal award schedule for at least partial satisfaction of said requisition utilizing the selected subset of suppliers, wherein said optimal award schedule includes information indicative of the

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manner in which each of said selected subset of suppliers is to at least partially satisfy said requisition (col. 1, lines 52-61, col. 5, lines 63-67 and col. 6, lines 1-6).

As per Claim 2, Carlton-Foss teaches, The method of claim 1, wherein receiving said requirements from said buyer over said computer network comprises receiving a list of items to be supplied (col. 11, lines 61-67 and col. 12, lines 1-7).

As per Claim 3, Carlton-Foss teaches, The method of claim 2, wherein receiving said list of items comprises receiving a list in which at least one item in said list is a logical item that includes a list of items (col. 12, lines 8-30).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. Claims 4-27 and 28-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,647,373) Carlton-Foss in view of (US 6,012,045) Barzilai et al, hereafter Barzilai.

As per Claim 4, Carlton-Foss failed to teach, The method of claim 1, wherein receiving said public buyer constraints comprises receiving a constraint selected from the group consisting of a maximum price said buyer is willing to pay for at least partial satisfaction of said requisition; and a non-price constraint required by said buyer for at least partial satisfaction of said requisition. Barzilai teaches, wherein receiving said requirements from said buyer over said network comprises receiving a requirement selected from the group consisting of a maximum price said buyer is willing to pay for at least partial satisfaction of said requisition; and a non-price requirement required by said buyer for at least partial satisfaction of said requisition (col. 6, lines 27-37, col. 9, lines 62-67, col. 10, lines 1-7, and col. 13, lines 16-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the receiving said public buyer requirements comprises receiving a requirement selected from the group consisting of a maximum price said buyer is willing to pay for at least partial satisfaction of said requisition; and a non-price requirement required by said buyer for at



least partial satisfaction of said requisition and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have a higher or lower charge on the credit card depending upon the value of the goods and services.

As per Claim 5, Carlton-Foss failed to teach, The method of claim 4, wherein said non-price requirement is selected from the group consisting of-a desired time for at least partial satisfaction of said requisition; a desired quality for at least partial satisfaction of said requisition; and a desired quantity for at least partial satisfaction of said requisition. Barzilai teaches, wherein said non-price requirement is selected from the group consisting of-a desired time for at least partial satisfaction of said requisition; a desired quality for at least partial satisfaction of said requisition; and a desired quantity for at least partial satisfaction of said requisition (col. 16, lines 29-67 and col. 17, lines 1-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the non-price constraint selected from the group consisting of a desired time for at least partial satisfaction of said requisition; a desired quality for at least partial satisfaction of said requisition and a desired quantity for at least partial satisfaction of said requisition and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have a frequency analysis of the bidding price, the time of day, and the location of the members.

As per Claim 6, Carlton-Foss fails to teach, The method of claim 1, wherein receiving said bid from each candidate supplier over said computer network comprises receiving a bid including a proposed price for at least partial satisfaction of said requisition. Barzilai teaches, wherein receiving said bid from each candidate supplier

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over said computer network comprises receiving a bid including a proposed price for at least partial satisfaction of said requisition (col. 17, lines 17-22 and lines 43-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the receiving said bid from each candidate supplier over said computer network comprise receiving a bid including a proposed price for at least partial satisfaction of said requisition and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to publish a bid chart showing the bid amount for all bids and the accepted bid amount for the merchandise.

As per Claim 7, Carlton-Foss failed to teach, The method of claim 1, wherein receiving said bid from each candidate supplier over said computer network comprises receiving a bid including a proposed price having a volume discount dependent on an extent to which said requisition is to be at least partially satisfied. Barzilai teaches, wherein receiving said bid from each candidate supplier over said computer network comprises receiving a bid including a proposed price having a volume discount dependent on an extent to which said requisition is to be at least partially satisfied (col. 17, lines 12-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the receiving the bid from each candidate supplier over said computer network comprise receiving the bid to include a proposed price having a volume discount dependent on an extent to which said requisition is to be at least partially satisfied and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have a bid, auction and sale system where the products and

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services are offered for sale and certain other information such as the manufacturer's suggested retail price, minimum opening price and bid cycle for the product.

As per Claim 8, Carlton-Foss failed to teach, The method of claim 1, wherein receiving said bid comprises receiving a bid from each candidate supplier over said computer network including a fixed charge independent of an extent to which said requisition is to be at least partially satisfied. Barzilai teaches, wherein receiving said bid from each candidate supplier over said computer network comprises receiving a bid including a fixed charge independent of an extent to which said requisition is to be at least partially satisfied (col. 17, lines 46-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have said bid comprise receiving a bid from each candidate supplier over said computer network including a fixed charge independent of an extent to which said requisition is to be at least partially satisfied and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have an electronic sale system and summary of the bid charges.

As per Claim 9, Carlton-Foss failed to teach, The method of claim 1, wherein receiving said bid from each candidate supplier over said computer network comprises receiving a bundled bid offering to at least partially satisfy, for a bundled price, a requisition for a selection of items from said list of items. Barzilai teaches receiving said bid from each candidate supplier over said computer network comprises receiving a bundled bid offering to at least partially satisfy, for a bundled price, a requisition for a selection of items from said list of items (col. 17, lines 56-67 and col. 18, lines 1-29). It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to receive a bundled bid offering to at least partially satisfy, for a bundled price, a requisition for a selection of items from said list of items and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to establish a user friendly bid, auction and sale system so a member can access his or her account from a home page with the items being listed in chronological order according to the date the user placed the bid.

As per Claim 10, Carlton-Foss failed to teach, The method of claim 1, further comprising facilitating an exchange of messages between a buyer and a candidate supplier over said computer network. Barzilai teaches, facilitating an exchange of messages between a buyer and a candidate supplier over said computer network (col. 18, lines 53-67 and col. 19, lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to facilitate an exchange of messages between a buyer and a candidate supplier over said computer network and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have a call system that is in the form of an e-mail or an electronic request from a user or customer.

As per Claim 11, Carlton-Foss failed to teach, The method of claim 10, further comprising facilitating the multi-casting of a message sent by said buyer to all candidate suppliers. Barzilai teaches, facilitating the multi-casting of a message sent by said buyer to all candidate suppliers over said computer network (col. 19, lines 4-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to facilitate the multi-casting of a message sent by the buyer to all candidate

suppliers over said computer network and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have the ability to e-mail the bids for the products by the buyers to the sellers for a decision which seller is going to have the customer's business.

As per Claim 12, Carlton-Foss failed to teach, The method of claim 1, wherein determining an optimal award schedule comprises considering a performance attribute for a candidate supplier. Barzilai teaches, determining an optimal award schedule comprises considering a performance attribute for a candidate supplier (col. 19, lines 20-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to determine an optimal award schedule comprising considering a performance attribute for a candidate supplier and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have an optimal award maximum bid of a vacation package.

As per Claim 13, Carlton-Foss teaches, The method of claim 12, wherein considering a performance attribute comprises selecting an attribute from the group consisting of the supplier's reputation for prompt delivery, the supplier's reputation for quality, geographical location of the supplier, the supplier's reputation for support and maintenance, and a user-defined attribute (col. 20, lines 29-49).

As per Claim 14, Carlton-Foss teaches, The method of claim 12, wherein considering a performance attribute comprises considering a weight supplied by said buyer, said weight being indicative of an extent to which said performance attribute is to

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be considered in determining said optimal award schedule (col. 10, lines 66-67 and col. 11, lines 1-54).

As per Claim 15, Carlton-Foss teaches, The method of claim 14, wherein considering a performance attribute comprises determining a price penalty on the basis of said weight and incorporating said price penalty in a bid received from said candidate supplier (col. 11, lines 55-67 and col. 12, lines 1-7).

As per Claim 16, Carlton-Foss teaches, The method of claim 1, wherein determining an optimal award schedule comprises applying a requirement that was not known to the candidate suppliers (col. 12, lines 8-42).

As per Claim 17, Carlton-Foss teaches, The method of claim 16, wherein applying the unknown requirement comprises applying a business rule (col. 12, line 43-68 and col. 13, lines 1-4).

As per Claim 18, Carlton-Foss teaches, The method of claim 17, wherein applying a business rule comprises selecting a business rule from the group consisting of a business rule placing a limit on the number of selected suppliers, a business rule specifying properties of said selected suppliers, a business rule placing a limit on the number of items provided by a selected suppliers, a business rule placing a limit on the number of items provided by a cluster of selected suppliers, and a business rule placing a limit on an extent to which a selected supplier at least partially satisfies said requisition (col. 9, lines 11-43).

As per Claim 19, Carlton-Foss teaches, The method of claim 18, wherein placing a limit comprises selecting a limit from the group consisting of an upper bound and a lower bound (col. 11, lines 10-34).

As per Claim 20, Carlton-Foss teaches, The method of claim 18, wherein the extent to which a selected supplier satisfies said requisition is measured by a monetary value of said extent (col. 11, lines 35-54).

As per Claim 21, Carlton-Foss teaches, The method of claim 16, wherein applying unknown requirement comprises rejecting any bundled bid (col. 12, lines 43-60).

As per Claim 22, Carlton-Foss and Barzilai fail to teach, The method of claim 16, wherein applying the unknown requirement comprises manually selecting a supplier for inclusion in said list of selected suppliers, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the unknown requirement comprising manually selecting a supplier for inclusion in the list of selected suppliers because such a modification in Carlton-Foss would allow Carlton-Foss to have a list of suppliers that are handpicked for specific products. The manual selection of a supplier for inclusion in a listing of suppliers is well known to be performed by the buyer or purchasing person.

As per Claim 23, The method of claim 22, Carlton-Foss and Barzilai failed to teach, wherein applying the unknown requirement further comprises manually specifying an extent to which said manually selected supplier is to at least partially satisfy said requisition, but it would have been obvious to have the manually specifying

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an extent to which a supplier is at least partially satisfy with the requisition because such a process can be performed either manually or electronically. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the process of specifying an extent to which the selected supplier is to at least partially satisfy the requisition to be performed manually and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have the ability to place the name of the supplier on paper using a pencil and applying a buyer constraint for the requisition (bid).

As per Claim 24, Carlton-Foss teaches, The method of claim 1, further comprising generating by computer a code indicative of at least one reason for rejecting a losing bid (col. 6, lines 4-26).

As per Claim 25, Carlton-Foss teaches, The method of claim 24, wherein generating said code comprises incorporating into said code information indicative of whether said losing bid was rejected on the basis of a reason selected from a group consisting of an excessive price and an inadequate performance attribute (col. 6, lines 54-67, col. 7, lines 1-17 and lines 23-31, and col. 8, lines 43-65).

As per Claim 26, Carlton-Foss teaches, The method of claim 1, further comprising selecting said requisition from the group consisting of a purchase of an item, a purchase of a group of items, a performance of a service, and a performance of a group of services (col. 11, lines 63-67 and col. 12, lines 1-7 and lines 18-21).

As per Claim 27, Carlton-Foss failed to teach, Computer-readable media having encoded thereon software to perform the steps of claim 27. Barzilai teaches, a



Computer-readable media having encoded thereon software to perform the steps of claim 27 (col. 3, lines 54-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a computer-readable media having encoded thereon software to perform the steps of claim 27 and to modify in Carlton-Foss because such a modification would allow Carlton-Foss to have nonvolatile storage of computer readable instructions. A computer-readable media is well known in the computer art for having computer-readable instructions stored on the nonvolatile memory. Carlton-Foss teaches, instructions for receiving from a buyer, over a computer network, requirements representative of said requisition (col. 2, lines 22-52, col. 10, lines 57-65, col. 13, lines 14-30, fig. 2, fig. 3, fig. 14a, fig. 14 b, and fig. 15); instructions for receiving from the buyer, over said computer network, a specified objective function including non-price criteria (col. 2, line 66-col. 3, line 6); instructions for transmitting to a set of prospective suppliers, over said computer network, requirements; instructions for receiving from each candidate supplier from a set of candidate suppliers, over said computer network, a bid responsive to said requirements, said set of candidate suppliers originating from said set of prospective suppliers; instructions for utilizing the specified objective function to select a subset of suppliers from said set of candidate suppliers and determine an optimal award schedule for at least partial satisfaction of said requisition utilizing the selected subset of suppliers; wherein said optimal award schedule includes information indicative of the manner in which each of said selected suppliers is to at least partially satisfy said requisition (col. 1, lines 52-61, col. 5, line 63-col. 6, line 6, fig. 4a, fig. 4b, and fig. 15).

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As per Claim 28, Carlton-Foss teaches, The computer-readable media of claim 27, wherein said instructions for receiving said requirements from said buyer over said computer network comprise instructions for receiving a list of items to be supplied (col. 5, lines 63-66).

As per Claim 29, Carlton-Foss teaches, The computer-readable media of claim 28, wherein said instructions for receiving said list of items comprise instructions for receiving a list in which at least one item in said list is a logical item that includes a list of items (col. 5, lines 63-66).

As per Claim 30, this dependent claim is rejected for the similar rationale as given above for claim 4.

As per Claim 31, this dependent claim is rejected for the similar rationale as given above for claim 5.

As per claim 32, this dependent claim is rejected for the similar rationale as given above for claim 6.

As per Claim 33, this dependent claim is rejected for the similar rationale as given above for claim 7.

As per Claim 34, this dependent claim is rejected for the similar rationale as given above for claim 8.

As per Claim 35, this dependent claim is rejected for the similar rationale as given above for claim 9.

As per Claim 36, this dependent claim is rejected for the similar rationale as given above for claim 10.

As per Claim 37, this dependent claim is rejected for the similar rationale as given above for claim 11.

As per Claim 38, this dependent claim is rejected for the similar rationale as given above for claim 12.

As per Claim 39, this dependent claim is rejected for the similar rationale as given above for claim 13.

As per Claim 40, this dependent claim is rejected for the similar rationale as given above for claim 14.

As per Claim 41, this dependent claim is rejected for the similar rationale as given above for claim 15.

As per Claim 42, this dependent claim is rejected for the similar rationale as given above for claim 16.

As per Claim 43, this dependent claim is rejected for the similar rationale as given above for claim 17.

As per Claim 44, this dependent claim is rejected for the similar rationale as given above for claim 18.

As per Claim 45, this dependent claim is rejected for the similar rationale as given above for claim 19.

As per Claim 46, this dependent claim is rejected for the similar rationale as given above for claim 20.

As per Claim 47, this dependent claim is rejected for the similar rationale as given above for claim 21.

As per Claim 48, this dependent claim is rejected for the similar rationale as given above for claim 22.

As per Claim 49, this dependent claim is rejected for the similar rationale as given above for claim 23.

As per Claim 50, this dependent claim is rejected for the similar rationale as given above for claim 24.

As per Claim 51, this dependent claim is rejected for the similar rationale as given above for claim 25.

As per Claim 52, this dependent claim is rejected for the similar rationale as given above for claim 26.

### ***Response to Arguments***

17. Applicants' arguments filed 10/13/04 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: Carlton-Foss does not determine an optimal award schedule, i.e., an "optimal combination of suppliers, together with the list items to be ordered from each supplier" has been considered but is not persuasive. It is interpreted that Carlton-Foss teaches "a list of suppliers and a list of items that can be ordered (bid on) in Figure 15.

Issue no. 2: Applicants' argue: Barzilai does not teach the use of non-price criteria and the determination of an optimal award schedule required by the present claims has been considered but is not persuasive. Response: Barzilai was not used to

reject the use of non-price criteria and the determination of an optimal award schedule. Carlton-Foss was used to reject these claim limitations.

Issue no. 3: applicants' argue: Neither Carlton-Foss nor Barzilai, alone or in combination, teaches or suggests at least this claim limitation because neither of these references teaches the use of non-price criteria in bids that are used to determine an optimal award schedule; certainly neither reference teaches explicit use of non-price criteria in an objective function capable of optimization or the determination of an optimal award schedule consisting of an optimal combination of suppliers, together with the list of items to be ordered from each supplier has been considered but is not persuasive. Response: It is interpreted that Carlton-Foss teaches non-price criteria in bids, suppliers, and a list of items that can be ordered from each supplier. The "objective function capable of optimization" and an "optimal award schedule" are not clear as to what they mean in the claim language or in the Specification. Applicants' are respectfully requested to point out in the Specification the support for the "objective function capable of optimization" and "an optimal award schedule" and to clearly and distinctly claim these features in the claim language.

Conclusion: Applicants' are respectfully requested to point out in the independent claim language and to claim the Applicants' inventive concept.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

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*During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<*

### **Conclusion**

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

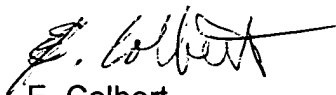
### **Inquiries**

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "E. Colbert", with a long horizontal stroke extending to the right.

E. Colbert  
January 8, 2005